

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE LOCAL 813
PENSION TRUST FUND,

MEMORANDUM AND ORDER

Plaintiffs,

Case No. 1:22-CV-05683-FB-PK

-against-

ARGENTO RUBBISH REMOVAL,
INC.,

Defendant.

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BLOCK, Senior District Judge:

On August 21, 2023, Magistrate Judge Kuo issued a Report and Recommendation (“R&R”) recommending that the Court grant Trustees of the Local 813 Pension Trust Fund’s (“Plaintiffs”) motion for default judgment against Argento Rubbish Removal, Inc. (“Defendant”), and award Plaintiffs \$377,674.80 in damages. The R&R gave the parties fourteen days to file objections and warned that “[f]ailure to file objections within the specified time waives the right to appeal any order or judgment entered based on this Report and Recommendation.” R&R at 11. No objections have been filed.

If clear notice has been given of the consequences of failing to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Smith v. Campbell*, 782 F.3d 93, 102

(2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citations omitted)). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

The Court sees no error on the R&R, aside from a minor typographical miscalculation regarding the damages. The R&R recommended \$300,960.00 in damages for accelerated withdrawal liability, \$16,552.80 in accrued interest from the date when accelerated withdrawal liability was due until the date when this action was commenced, and \$60,192.00 in liquidated damages. Together, these awards total \$377,704.80. Having rectified this minor miscalculation, the Court adopts the R&R as corrected without de novo review. The Clerk shall enter judgment in favor of Plaintiffs and against Defendant, in the amount of \$377,704.80.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
September 13, 2023